Comments on Proposed, Revised Green Guides, 16 CFR Part 260, Project No. P954501
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The Antares Group is a clean energy company that works with both private sector companies and government institutions to identify, develop and install clean energy technologies including biomass, solar and wind. Antares also works closely with the Federal Energy Management Program (FEMP), which facilitates the Federal Government's implementation of sound, cost-effective energy management and investment practices to enhance the nation's energy security and environmental stewardship. This includes facilitating the development of renewable energy by Federal agencies, and working with agencies to explain their accomplishments to the public. Antares strongly supports the majority of the proposed revisions to the Guide concerning renewable energy claims. They clarify important issues concerning renewable energy certificates (RECs) and renewable claims for both the private companies and government agencies we work with. However, Antares disagrees with the FTC's view on the term "hosted" in reference to the situation in which a renewable energy facility is sited, but the energy it generates is not consumed, on one's building or land. Antares believes that the term "hosting" would not be deceptive if used in conjunction with a more detailed explanation of the arrangement. Because these kinds of arrangements are very common for renewable energy systems, there is need for some method of describing situations in which an agency or entity has a highly visible renewable energy facility on site but does not use the renewable energy itself.

Renewable Energy Claims

One area that is a problem for government agencies, and for many private sector firms, is Section 260.14 Renewable Energy Claims, paragraph (d) Example 2 concerning claims that a company "hosts a renewable power facility." The FTC's consumer perception survey found consumers did not understand what this meant and misinterpreted it to mean the company is using renewable energy. FEMP believes this consumer misperception is the result of a lack of education and information about this approach to siting renewable energy and the fact that most consumers are unaware of "hosting" and its benefits. "Host" is the most descriptive term for this type of arrangement, but like other environmental claims that consumers tend to misinterpret it requires substantiation. The way this example is presented would discourage companies and agencies from using the term "host." However, to explain why they have a highly visible renewable energy system on their building or site, agencies and companies will use other ways to describe the arrangement and clear acceptable language in examples would be very helpful. Providing an adequate explanation of the arrangement and its benefits would not be deceptive.

There are two general situations where a company or agency might want to use the term "hosted." First, when a renewable project is located at their site and the site is using all the electricity, but all of the RECs are sold to a third party. This describes how a 750 kW PVsystem at the National Renewable Energy Laboratory was installed. Second, a renewable energy project may be installed at a site but the site itself doesn't use any of the electricity or own any of the RECs from the project. This describes how the 37 MW system at Brookhaven National

Laboratory will be installed. We have offered some clearer examples and some changes to the proposed example that illustrate how different arrangements can be appropriately explained.

Example 2: A company places solar panels on its store roof to generate electricity and advertises that its store is "100% solar-powered." The company, however, sells renewable energy certificates (RECs) based on the renewable attributes of all the power it generates. Even if the company uses the electricity generated by the solar panels, it has, by selling renewable energy certificates, transferred the right to characterize that electricity as renewable. The company's claim is therefore deceptive. It may also be deceptive for this company to advertise that it "hosts a renewable power facility" without further explanation because reasonable consumers could misinterpret this claim to mean that the company uses renewable energy. To avoid misleading consumers the claim must include information on who actually uses the renewable energy represented by the RECs and the fact that the "host" does not use the renewable energy, such as "company X does not use the renewable energy from the renewable energy project it hosts on its site, but the system supplies renewable energy to company Y that does not have room for its own system."

Example 3: A government agency with exceptional wind resources on its land allows a utility to install a 100 MW wind energy project at one of its facilities. The facility receives 10% of the renewable energy and therefore 10% of the associated RECs from the project. This accounts for 15% of the agency's annual electricity use. The rest is owned by the utility and is used to satisfy a renewable portfolio standard. If the agency claims that it "hosts a wind power project that generates enough electricity to power our entire facility" it would be a deceptive claim, even though it is technically true. An average consumer would interpret this to mean the agency is using power from the project to meet all of its needs, but it is only using 10% of the project's power and is meeting only a small portion of its own generating needs. To avoid misleading consumers the agency should clearly state how much of the power it owns and uses and that the remainder belongs to the utility: "Agency A hosts a 100 MW wind project on its land. Our agency uses 10% of the wind power to meet part (15%) of our electricity use with renewable energy. The remaining 90% is owned by Utility B and is used to supply their customers with renewable energy."

Example 4: A developer installs a 180 MW biomass power plant at Air Force Base A. The power from the plant goes to Utility B that then sells it to consumers as green power through a program in which consumers pay a premium to purchase renewable energy equivalent to their own electricity needs. The air force base receives compensation for the land used to site the system in the form of reductions in its electricity bill, and the option of disconnecting from the grid and using the biomass power plant to meet the base's energy demand in an emergency. The developer claims it has "built the largest biomass power plant ever on an air force base, capable of powering the entire base without interruption." This is technically true, but a consumer could easily misunderstand this statement to mean that the base is purchasing both the electricity and the associated renewable attributes from the biomass plant, when it only purchases the electricity (not the renewable energy) in an emergency. To avoid misleading consumers the developer

must provide the full explanation of how the biomass plant is used: "XYZ Development has built the largest biomass power plant ever sited on an air force base. The 180 MW plant supplies power to Utility B for its green power program. Air Force Base A does not use any of the power directly, but in a national emergency would be allowed to divert electricity from the plant to power essential base operations."

Example 5: XYZ Development installs a 50 MW Photovoltaic (PV) power plant at Army Base A under a power purchase agreement. The electricity from the power plant is purchased by the base as 'brown power', but the associated RECs from the plant go to Utility B that then uses the RECs to meet state renewable portfolio standard (RPS) requirements and to supply other customers with green power. Army Base A claims it "hosts the largest PV system in the Federal government that supplies 10% of our electricity." This is technically true, but a consumer could easily misunderstand this statement to mean that the base is purchasing both the electricity and the renewable attributes from the PV plant, when it is not. The utility and its customers who pay for renewable energy to meet the state renewable portfolio standard could believe that they and the Army are both taking credit for the renewable energy attributes. To avoid misleading consumers the developer and the Base must provide the full explanation of how the PV plant is used: "Army Base A and XYZ Development have partnered with Utility B to build a 50 MW photovoltaic power plant. The Army base receives the electricity, and the Utility receives the renewable attributes of the electricity (Renewable Energy Certificates or RECs) to meet state renewable energy requirements. The value of the RECs to the utility helped make the project financially workable for Base A and XYZ Development".

Example 6: Building Owner Z installs a large solar thermal system on her roof that generates both heat and power. The building owner wants to use renewable energy to meet 100% of the building's electric and thermal requirements. The building owner finds she can sell the RECs from the project to local utility Y at a premium because of a solar requirement in the state renewable portfolio standard. The building owner uses the funds from selling the RECs to buy down the cost of installing the solar thermal system and to purchase less expensive wind power RECs equivalent to the building's entire energy requirement. The building owner places a sign next to the solar thermal system saying: "This building meets 100% of its energy needs with renewable energy. This solar thermal system, hosted for Utility Y, is an example of our commitment to renewable energy." This claim could deceive consumers because they could believe that the solar thermal system was supplying renewable energy to the building, when the renewable energy actually belongs to Utility Y. To avoid confusion the sign and any supporting marketing materials should explain who actually owns the renewable energy and where the renewable energy claimed by Building Owner Z and Utility Y come from: "This building meets 100% of its energy needs with purchased wind energy. As a further example of our commitment to renewable energy, we also host this solar thermal power plant for Utility Y, which uses it to increase the supply of renewable energy to its customers."

It is important to provide positive guidance on how to explain "hosted" facilities because this arrangement is becoming more and more common as renewable energy developers and consumers struggle to site facilities. It is not unusual for a building owner with a new, strong, flat roof that is ideal for distributed solar energy to be unable or unwilling to develop the roof for their own energy needs while another building that would be a poor site for development in the same area has an owner willing and able to invest in renewable energy. Encouraging the first owner to offer his roof for solar energy development solves the second owner's siting problem and increases the use of solar energy. "Hosted" facilities are increasingly common in the Federal government, where an agency is willing to put in the considerable effort to make its land and buildings available as a site for a project, but is not able to use the renewable energy itself. So far NASA, DoD, and DOE have already completed or are in the process of negotiating these hosting arrangements for hundreds of megawatts of projects, providing access to high-quality renewable resources that would be unlikely to be developed any other way. These arrangements should be encouraged, but to do so there needs to be clear guidance on how they can be explained and advertised to the public. The alternative language FEMP has offered balances the need to protect the public from deceptive claims while providing guidance on the information consumers need to understand what "hosted" actually means. By providing an example that explains who actually uses the renewable energy (owns the RECs) in combination with making it clear that the site does not, this example should be useful to the many situations that lead to sites hosting facilities for others without discouraging such arrangements.